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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,987	03/10/2006	Horst Knoch	P2003,0600	5568
7590 Michael E Carroll Jr PO Box 489 Hickory, NC 28603-0489		09/26/2007	EXAMINER VARGOT, MATHIEU D	
			ART UNIT 1732	PAPER NUMBER
			MAIL DATE 09/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/571,987	KNOCH ET AL.	
	Examiner	Art Unit	
	Mathieu D. Vargot	1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/10/06 &amp; 8/20/07</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

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1. Applicant's election of Group I, claims 1-10 in the reply filed on July 5, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franke et al (see Fig. 4 and col. 5, line 62 through col. 6, line 5) in view of Japanese Kokai 63-265,209.

Franke et al (see Fig. 4) discloses the basic claimed method for the production of an optical transmission element having at least one waveguide (1) and comprising a chamber element (2) that is extruded and surrounds the waveguide by applying a foamed filler composition (6) discontinuously to the waveguide and extruding the chamber. It is submitted that the foamed filler in the primary reference in fact stabilizes within the formed chamber as set forth in instant claim 1 as it is either—(1) injected and forms a foam which would be stabilized—ie, solidified; or applied as a preformed foam piece, which would inherently be stabilized since it is already solid. In either case stabilization would form the instant dry compressible filler. If in fact stabilization is considered to not be inherent, then it is submitted that this aspect is obvious over Franke et al to ensure that the foam filler pieces can adequately support the optical fiber

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waveguide. Essentially, Franke et al fails to teach that the foamed filler pieces would surround the at least one waveguide. Japanese –209 teaches applying a foamed filler wherein the foam is solidified into foamed bodies (11) that surround the optical fiber. It certainly would have been obvious to have modified the method of Franke et al so that the foamed bodies surround the waveguide/fiber dependent on the exact kind of structural support expected from the foam bodies. The primary reference teaches polyurethane foam—see col. 6, lines 1-2. Since the foam pieces in Franke et al are designed to fit within the chamber element, they clearly would not alter the cross-section of the chamber. The foamed filler in the primary reference is not introduced into the extruder. However, this is submitted to have been an obvious modification to the process of Franke et al. The filler is either injected into the chamber element or inserted therein as a solid piece after the chamber element is extruded and it would have been obvious to have modified this so that the filler is attached to the waveguide/fiber prior to placing the waveguide/fiber in the extruder. The injection into the chamber of Franke et al would have been easily modified to the instant injecting using nozzles as set forth in instant claims 7 and 8. The exact disposition of the nozzles would have been an obvious consideration dependent on the amount of filler and exact location of the filler used. Piezocontrol valves are well known and would have been obvious nozzle elements to perform the application of the foamed filler.

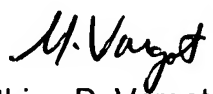
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
September 12, 2007

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

9/12/07